

ONE HUNDRED FOURTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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July 1, 2015

The Honorable Ernest Moniz
Secretary
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Secretary Moniz:

Thank you for appearing before the Subcommittee on Oversight and Investigations on Friday, June 12, 2015, to testify at the hearing entitled "Oversight Failures Behind the Radiological Incident at DOE's Waste Isolation Pilot Plant."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

Also attached are Member requests made during the hearing. The format of your responses to these requests should follow the same format as your responses to the additional questions for the record.

To facilitate the printing of the hearing record, please respond to these questions and requests with a transmittal letter by the close of business on Wednesday, July 15, 2015. Your responses should be mailed to Jessica Wilkerson, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed in Word format to jessica.wilkerson@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,


Tim Murphy
Chairman
Subcommittee on Oversight and Investigations

cc: Diana DeGette, Ranking Member, Subcommittee on Oversight and Investigations

Attachments

Attachment 1—Additional Questions for the Record

The Honorable Tim Murphy

1. Please provide DOE's estimate of the total costs and impacts of the fire and radiological incident at WIPP, including any taxpayer-funded DOE liabilities and penalties, estimated costs relating to the diversion of waste streams to Waste Control Specialists, the treatment of nitrate bearing TRU waste, and the hold up of waste streams at other DOE sites?
 - a. What are the risks that the WIPP shutdown will cause other states to violate their compliance agreements with states?
 - b. When does DOE estimate the WIPP will begin full operations, including complete resumption of transportation of waste from sites around the nation?
2. Please detail the timing and nature of the commitments entered into by the Department of Energy with the State of New Mexico regarding TRU waste shipments and disposal, along with an explanation of any associated fines and penalties related to those missed milestones.
 - a. Do those commitments include flexibility to accommodate changes in availability of federal appropriations?
 - b. Does the contractor make those commitments or is that the sole responsibility of the Department?
 - c. To what extent does the responsible contractor participate in those state commitments?
3. The oversight failures associated with this event were systemic. The concern raised is whether there are similar weaknesses at other site operations, at Los Alamos or other high hazard work at sites around the country. What are you doing to assess the state of oversight conditions around the National Nuclear Security Administration's (NNSA) and the Office of Environmental Management's (EM) sites?
4. The Los Alamos National Laboratory's independent report by Longenecker & Associates on the incident noted that management lacked "competencies commensurate with responsibilities" among other failures. What are NNSA and EM doing to ensure federal site offices maintain the appropriate *oversight* competencies?
5. Please explain the origins and purposes of the Management and Operating (M&O) model for conducting the work at DOE's high hazard nuclear sites.
6. Please explain the liability structure under which DOE and its contractor community perform work throughout the laboratory and cleanup complex.
7. Please explain the role played by the Price Anderson Act as it relates to DOE and the contractor community's work at DOE sites.

8. Please provide an explanation of the Department of Energy's specific oversight responsibilities at the Los Alamos National Laboratory and the Waste Isolation Pilot Plant.
 - a. How are those responsibilities tracked and verified?
 - b. Describe the frequency and scope of oversight-related communications between DOE and sites, and site offices and DOE headquarters.
9. What methods and tools does DOE have to hold its contractors accountable for performance?
 - a. Identify the largest penalty and/or fee reduction assessed against a DOE contractor, and for what reasons.
 - b. Please explain the consequences that switching contractors at a major lab site would have on the workforce, mission accomplishment, project timing (cost and schedule), and overall monetary cost of transition and competition.
10. In 2013, the National Academy of Public Administration released a report evaluating DOE's management and oversight of the national labs. Among the report's many conclusions, the Panel recommended that DOE revise its order on Contractor Assurance Systems to provide more explicit guidance designing and implementing mature Contractor Assurance Systems. What, if any steps, is the Department taking to develop more explicit guidance to assist all components, including NNSA and Environmental Management, in improving oversight of contractor assurance systems?
11. The November 2014 Report of the Congressional Advisory Panel on the Governance of the Nuclear Security Enterprise identified a number of weaknesses in NNSA's current oversight model, including "wasteful and ineffective transactional oversight." Citing a number of examples, including the breakdowns at Y-12, the authors noted "What is needed is not more oversight but better oversight." They added, "multiple layers of process cannot by themselves ensure zero risk or high confidence in mission performance."
 - a. What is the Department's response to these observations by the Congressional Advisory Panel, specifically the idea that "What is needed is not more oversight but better oversight?"
 - b. What is necessary to establish the right balance and what is the Department doing to achieve this, both at NNSA and other DOE offices?

Attachment 2—Member Requests for the Record

During the hearing, Members asked you to provide additional information for the record, and you indicated that you would provide that information. For your convenience, descriptions of the requested information are provided below.

The Honorable Diana DeGette

1. Please supplement your response during the hearing addressing the lack of cohesion among contractor oversight policies and compliance at the different DOE agencies. Would additional guidance or requirements from DOE help address this problem?

The Honorable Larry Bucshon

1. How is the fine against the contractor levied? If the contractor is deemed responsible for the accidents, why is the contractor not required to pay the entirety of the clean-up and repair costs? Does it have something to do with how M&O contracts operate?